

Circulate

COMPTROLLER GENERAL OF THE UNITED STATES
Washington 25

B-107722

February 7, 1952

Pentagon Federal Credit Union
Concourse, The Pentagon
Washington 25, D. C.

Gentlemen:

Reference is made to your letter of January 23, 1952, relative to your claim against Mary Louise Van Rossum in the amount of \$220 plus interest, from November 23, 1949, in which you requested this Office to suspend any withdrawal of any monies to the credit of debtor's retirement fund account until her indebtedness to your organization has been liquidated.

Section 18 of the Civil Service Retirement Act of May 29, 1930, as amended, 46 Stat. 479, 5 U. S. C. 729, provides as follows:

"None of the moneys mentioned in this Act shall be assignable, either in law or equity, or be subject to execution, levy, or attachment, garnishment, or other legal process."

This Office has held that the quoted provisions of the statute do not apply to the United States, and that amounts owing by individuals to the United States may be recovered by set-off against retirement annuities due them. See 16 Comp. Gen. 1017; 19 id. 721; and 21 id. 1000. The statute does apply to all other creditors and under the plain terms thereof the debtor could not make an enforceable assignment of the funds involved and they are exempt from legal process. In such circumstances this Office would appear to have no authority to withhold such moneys for the benefit of a private creditor.

While it has been held that Army exchanges are instrumentalities of the Government for some purposes and that they are integral parts of the War Department (24 Comp. Gen. 771), funds of such exchanges are nonappropriated funds (paragraphs 3 and 4 AR 210-50) and this Office has held that debts due such exchanges are not debts due the United States and that there is no authority to set-off debts due an exchange against the amount due the employee as refund of retirement deductions. See 9 Comp. Gen. 353; 9 id. 411; and 11 id. 161.

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It is understood that the funds of a Federal Credit Union are the property of employees or other private persons and are not appropriated funds. In that case collection by set-off against the debtor's retirement fund account is prohibited.

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Accordingly, this Office may not suspend withdrawal of debtor's retirement fund deductions pending payment of your claim, or for any purpose other than collection of a debt due the United States.

Very truly yours,

(Signed) LINDSAY C. WARREN

Comptroller General
of the United States

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